

U.S. Department of Justice



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United States Attorney  
Southern District of New York

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November 9, 2007

BY HAND AND BY FACSIMILE TO (212) 805-7912

Honorable John G. Koeltl  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, New York 10007

APPLICATION GRANTED  
SO ORDERED

*[Signature]*  
John G. Koeltl, U.S.D.J.

Re: Aguilar v. Immigrations & Customs Enforcement, et al.,  
07 Civ. 8224 (JGK) (FM)

Dear Judge Koeltl:

On November 8, 2007, we received the Court's order, dated November 6, 2007 (the "Order"), providing that "the government may submit its response to the order to show cause for expedited discovery on the same date as the government's motion to dismiss, due on November 16, 2007." We write respectfully (i) to inform the Court of the parties' efforts related to the discovery issues raised by the discovery motion, (ii) to request that the Court approve the negotiated terms of the proposed confidentiality order (enclosed), and (iii) to request that the Court approve the parties' proposed briefing schedule for the government's partial motion to dismiss. The parties have agreed on the contents of this letter.

Since the parties appeared before Your Honor on October 22, 2007, we have been actively negotiating a potential resolution of the discovery motion. Defendant Immigration and Customs Enforcement ("ICE") has agreed to provide plaintiffs with non-privileged documents reflecting policies and procedures governing home entries and searches such as those at issue in the amended complaint. To that end, the parties have been negotiating the terms of a proposed confidentiality order that would govern the disclosure and use of documents produced by ICE, and the parties respectfully request that the Court approve the proposed confidentiality order, a fully executed copy of which is enclosed.

ICE expects to provide plaintiffs with the first production of policy materials today and to produce additional non-privileged materials shortly. Once plaintiffs have received all of the materials ICE intends to produce and have an understanding about the scope of the materials the government has withheld, the parties will be in a position to advise the Court whether the matter has been resolved or whether plaintiffs wish to pursue the discovery motion.

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In addition, we respectfully request that the Court approve the parties' proposed briefing schedule for ICE's partial motion to dismiss. Although the government suggested the date of November 16 so that it could consolidate briefing on the discovery motion and the motion to dismiss, ICE's response to the amended complaint is in fact not due until November 20, 2007. See Fed. R. Civ. P. 15(a). Because we have devoted significant time in the last two-and-a-half weeks in attempting to address the discovery motion, we respectfully request that ICE's time to respond to the amended complaint be adjourned from November 20, until December 7, 2007.

Accordingly, the parties request that the Court approve the following briefing schedule governing ICE's partial motion to dismiss:

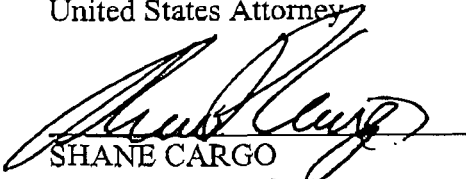
December 7, 2007:	Last day that ICE's partial motion to dismiss may be served;
January 18, 2008	Last day that plaintiffs' opposition to ICE's motion may be served;
February 8, 2008:	Last day that ICE's reply, if any, may be served.

Thank you for your consideration of this matter.

Respectfully submitted,

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United States Attorney

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